



Public Notice

Applicant:
Richard E. Jacobs Group LLC

ISSUED: OCTOBER 18, 2012
EXPIRES: NOVEMBER 16, 2012

U.S. Army Corps
of Engineers
Buffalo District

Application No: 2009-00031
Section: OH

All written comments should reference the above Application No. and be addressed to: **US Army Corps of Engineers, Buffalo District Regulatory Branch 1776 Niagara Street Buffalo, NY 14207-3199**

THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC REGARDING THE WORK DESCRIBED BELOW. NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT A PERMIT WILL BE ISSUED AT THIS TIME.

**Application for Permit under Authority of
Section 404 of the Clean Water Act (33 U.S.C. 1344).**

APPLICANT: Richard E. Jacobs Group LLC, 25425 Center Ridge Road, Cleveland, Ohio 44145

WATERWAY & LOCATION: Wetland M, Southeast corner of the intersection of Just Imagine Drive and Nagel Road, City of Avon, Lorain County, Ohio

LATITUDE & LONGITUDE: Latitude North: 41.46666
Longitude West: -81.98705

EXISTING CONDITIONS:

The 7.7 acre trapezoidal parcel is bordered to the north by Just Imagine Drive, to the south by Interstate 90, to the east by a residential home, and to the west by Nagel Road.

On 7 February 2008, a jurisdictional determination was completed by Huntington District which included the subject parcel (LRH 2007-00616, Sheet 2 of 4).

On 7 August 2009, the applicant received a Nationwide Permit affirmation for their proposal to place fill in waters of the U.S. for the purpose of constructing a commercial subdivision (one hotel and three restaurants). As per the 2009 Nationwide Permit affirmation, the applicant was authorized to fill a total of 0.451 acres of federal wetlands on the subject parcel including 0.25 acres of Wetland M (Sheet 3 of 4). The Nationwide Permit was re-affirmed on 15 April 2011. The applicant filled and graded 0.451 acres of federal wetland and adjacent upland however no building pads, drives, utilities, or structures were constructed.

On 22 March 2011, Huntington District Corps validated a permit (LRH2007-00616) for the Ohio Department of Transportation (ODOT) to permanently place fill in waters of the U.S. for the

construction of the Interstate 90 Avon Interchange. Specific to the subject parcel, ODOT permanently filled 0.47 acres of Wetland M.

On 15 October 2012, Buffalo District Corps of Engineers affirmed a Nationwide Permit (LRB2010-00824) in which the City of Avon was authorized to temporarily place fill in 0.171 acres of Wetland M and other off-site waters for utility line installation related to the Interstate 90 Avon Interchange.

As a result of the three permits mentioned above (LRB2009-00031, LRH2007-00616 and LRB2010-00824), 0.262 acres of Wetland M remains on-site. Additionally, 0.171 acres of Wetland M is slated to be restored as impacts resulting from the City of Avon permit (LRB2010-00824) were temporary in nature.

PROPOSED WORK: The applicant requests to place fill in a total of 0.36 acres of Wetland M for preparation of the site to attract mixed-use end-users (Sheet 4 of 4). The remaining 0.262 acres of Wetland M will be permanently filled and 0.098 acres of the 0.171 acres of fill from the City of Avon utility installation (LRB 2010-00824) originally authorized as temporary will be maintained as permanent fill. The proposed fills include grading, installing utilities, constructing storm water management, and constructing drives.

The 2009 Nationwide Permit (LRB2009-00031) and the current proposal are being considered a single and complete project. Cumulative impacts for the Nationwide Permit and the current proposal total 0.811 acres of permanent wetland fill.

PROJECT PURPOSE:

Basic: Site preparation for marketing

Overall: To place fill in waters of the U.S. in order to prepare (grade, install utilities, construct storm water management, construct drives) and market a site for mixed-use development within the City of Avon

Water Dependency Determination: The proposed activity is not water dependent.

Avoidance and Minimization Information: In order to avoid impacts to waters of the U.S., the applicant will avoid impacts to 0.073 acres of Wetland M, the only remaining on-site water of the U.S.

Proposed Mitigation: The applicant proposes to mitigate for impacts to Waters of the U.S. through the purchase of 0.8 credits at Pearson Metropark Mitigation Bank. The 2009 Nationwide Permit impacts of 0.451 acres of wetland fill were mitigated by the purchase of 1 credit from Person Metropark Mitigation Bank.

Location and details of the above described work are shown on the attached maps and drawings.

Comments or questions pertaining to the work described in this notice should be reference the Application Number and be directed to the attention of Susan L. Baker, who can be contacted at the above address, by calling (716) 879-4474, or by e-mail at: susan.l.baker@usace.army.mil A lack of response will be interpreted as meaning that there is no objection to the work as proposed.

The following authorization is required for this project:

Water Quality Certification (or waiver thereof) from the Ohio Environmental Protection Agency

Based on preliminary findings, there do not appear to be any properties listed in, or eligible for listing in, the National Register of Historic Places within the permit area/area of potential effects as shown on Sheet 4 of 4. As no properties listed in, or eligible for listing in the National Register of Historic Places have been identified within the vicinity of the project area/area of potential effects, it has been determined that no historic properties will be affected by the proposed activity. This notice constitutes initiation of consultation with the Ohio Historic Preservation Office (SHPO) per Section 106 of the National Historic Preservation Act. All currently available historic resource information pertaining to this proposed project if any has been provided to the SHPO. Additional information concerning historic properties should be submitted to the Corps before the end of the comment period of this notice. The Corps will forward that information to the SHPO for their review.

Pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1531), the Corps of Engineers is consulting, under separate cover, with the USFWS to evaluate any potential impacts to: Indiana bat (*Myotis sodalis*), Kirtland's warbler (*Dendroica kirtlandii*), and piping plover (*Charadrius melodus*) to ensure that the proposed activity is not likely to jeopardize their continued existence or result in the destruction or adverse modification of critical habitat.

This notice is promulgated in accordance with Title 33, Code of Federal Regulations, parts 320-330. Any interested party desiring to comment on the work described herein may do so by submitting their comments, in writing, so that they are received no later than 4:30 pm on the expiration date of this notice.

Comments submitted in response to this notice will be fully considered during the public interest review for this permit application. All written comments will be made a part of the administrative record which is available to the public under the Freedom of Information Act. The Administrative Record, or portions thereof may also be posted on a Corps of Engineers internet web site. Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

Any individual may request a public hearing by submitting their written request, stating the specific reasons for holding a hearing, in the same manner and time period as other comments.

Public hearings for the purposes of the Corps permit program will be held when the District Commander determines he can obtain additional information, not available in written comments, that will aid him in the decision making process for this application. A Corps hearing is not a source of information for the general public, nor a forum for the resolution of issues or conflicting points of view (witnesses are not sworn and cross examination is prohibited). Hearings will not be held to obtain information on issues unrelated to the work requiring a permit, such as property ownership, neighbor disputes, or the behavior or actions of the public or applicant on upland property not regulated by the Department of the Army. Information obtained from a public hearing is given no greater weight than that obtained from written comments. Therefore, you should not fail to make timely written comments because a hearing might be held.

The decision to approve or deny this permit request will be based on an evaluation of the probable impact, including cumulative impacts of the proposed activity on the public interest. That decision will

reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

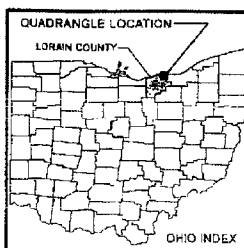
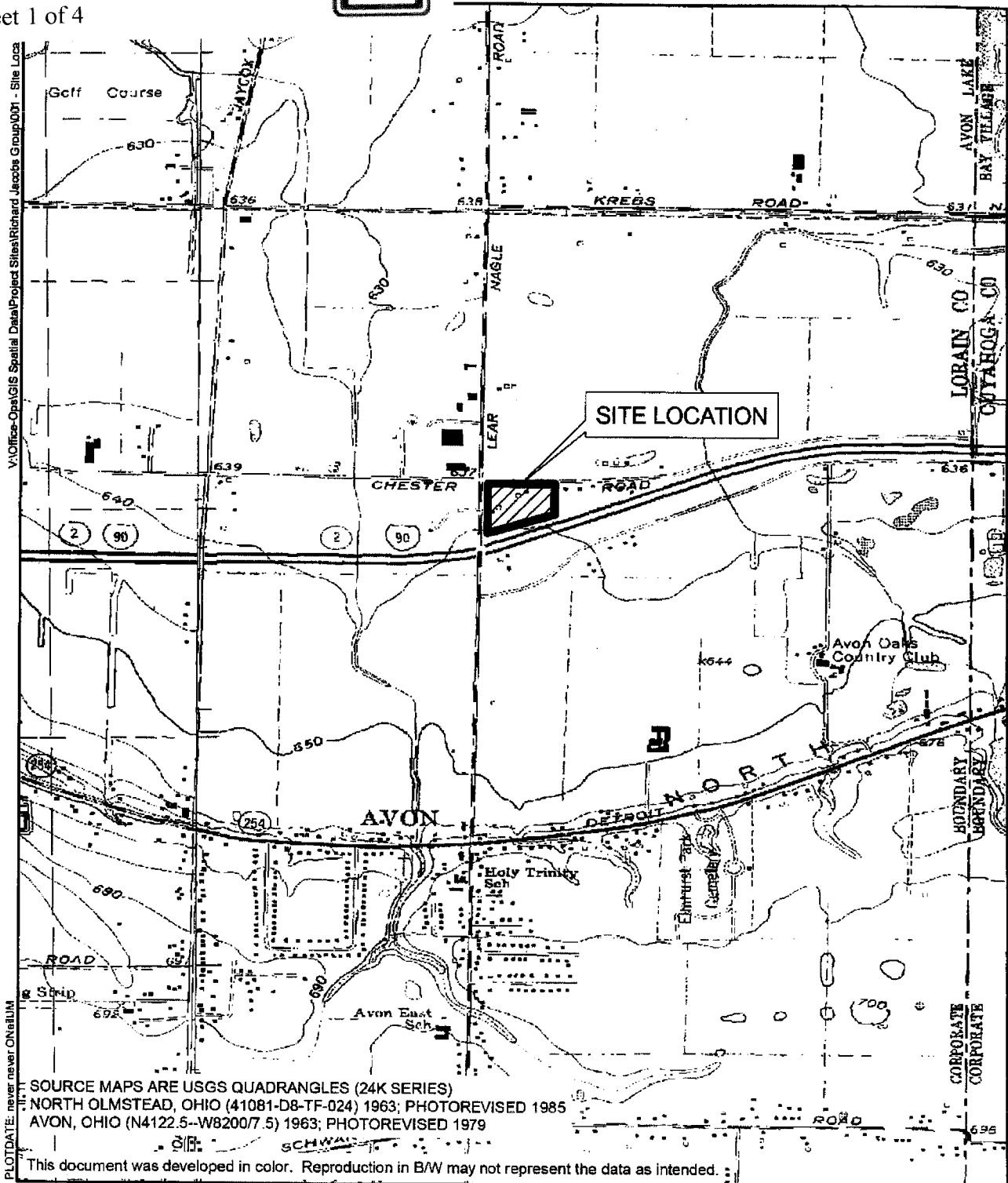
SIGNED

Diane C. Kozlowski
Chief, Regulatory Branch

NOTICE TO POSTMASTER: It is requested that this notice be posted continuously and conspicuously for 30 days from the date of issuance.



FIGURE 1



**THE RICHARD E. JACOBS GROUP
CLEVELAND, OHIO**

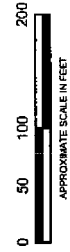
**7.7 ACRE PARCEL
JUST IMAGINE DRIVE
AVON, LORAIN COUNTY, OHIO**





THE RICHARD E. JACOBS
GROUP
CLEVELAND, OHIO

**7.7 ACRE PARCEL
WETLAND
DELINEATION MAP**



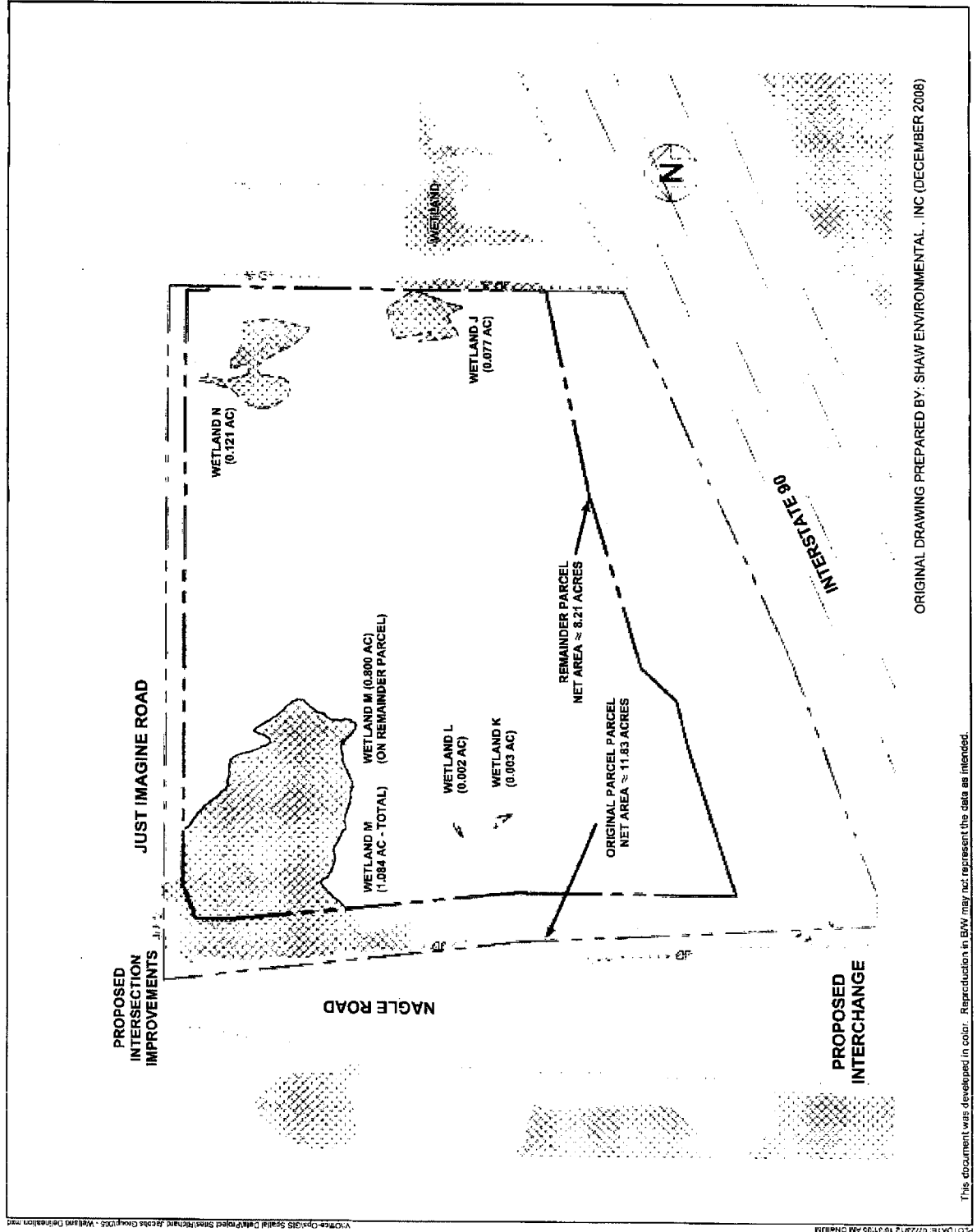
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4800-001

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FIGURE 4



Wetland Delineation Map as verified in 2008 under LRH 2007-00616.
*Note: current on-site conditions differ from this map; 0.262 acres of Wetland M exists on site. See Sheet 4 of 4 for current wetland extent.



ORIGINAL DRAWING PREPARED BY: SHAW ENVIRONMENTAL, INC (DECEMBER 2008)

